



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
AUCTIONEER COMMISSION
Davy Crockett Tower, Suite 635
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-1152
(615) 741-3600

The Tennessee Auctioneer Commission held its meeting July 7, 2008 at 8:30 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower, 2nd Floor Conference Room. Chairman Kenneth Dreaden called the meeting to order. The following business was transacted.

COMMISSION MEMBERS PRESENT

Bobby Colson
Marvin Alexander
Howard Phillips
Mary Frances Rudy

STAFF MEMBERS PRESENT

Lynn McGill, Administrative Director
Sheila Piper, Administrative Assistant
Adrian Chick, Staff Attorney

COMMISSION MEMBER ABSENT

Howard Phillips

Motion was made by Bobby Colson and seconded by Marvin Alexander to adopt agenda. Motion carried. No opposition.

Minutes from the meeting of June 2, 2008 were presented to the Commission Members for approval. Motion was made by Marvin Alexander and seconded by Bobby Colson to approve said minutes. Motion carried. No opposition.

Jan Taylor appeared before the Commission Members to discuss time frame to test to upgrade from an apprentice to an auctioneer.

Motion was made by Marvin Alexander and seconded by Bobby Colson that apprentices could test 60 days prior to the expiration date of their apprenticeship. Motion carried. No opposition.

The firm application of Real Estate Disposition Corporation was presented to the Commission Members for approval. Motion was made by Marvin Alexander and seconded by Bobby Colson to deny application. The firm owner would need 30 hours of qualifying education and pass the non-auctioneer firm exam. Motion carried. No opposition.

Motion was made by Bobby Colson and seconded by Mary Frances Rudy to approve

Minutes

application for Public Automobile Auction License with changes to:
question 5. Add felony
question 8. Change auctioneer to auction
question 9. Deletion "of firm" in signed section.
Motion passed. No opposition.

Staff Attorney presented the following complaints to the Commission Members.

1. L08-AUC-RBS-2008012861.

Complaint: Respondent auction firm contacted Complainant who had twenty-nine units (motorcycles) for sale and offered to place them in Respondent's auction. Complainant sent information for each unit showing the Complainant's cost in each item, and Respondent "assured [Complainant] that we would show a profit or at least break even." The total invested cost was \$125,000. Respondent had the units picked up on December 3 and 4th, 2007. After receiving Complainant's units, Respondent became difficult to deal with and did not fax a contract until December 7, the day prior to auction. The units were auctioned by Respondent at a \$60,000 loss to Complainants. As of fifty-one days after auction, Complainant had still not received payment, and despite approximately thirty phone calls, Respondent would not communicate with Complainant.

Response: Respondent states that a contract was "dated" November 29 and faxed back to Complainant on December 6. Despite not receiving necessary documentation from Complainant on two units, a check for the proceeds was mailed to Complainant on February 6, 2008. The Complainant is a dealer and understood the terms of the contract.

Motion was made by Bobby Colson and seconded by Mary Frances Rudy to accept Legal's recommendation to authorize a Formal Hearing. Motion carried. No opposition.

2. L08-AUC-RBS-2008004581.

Complaint: On February 6, 2008, the Complainant delivered a motorcycle to Respondent for auction on February 9, 2008. Respondent told Complainant that he would be notified of the sale but as of February 9, Complaint had received no response. The Respondent believes the motorcycle was not sold on the date of auction, but was later sold to another party at a price well below its value.

Response: Respondent states that the motorcycle was sold on February 9, 2008 according to the terms of the contract.

Motion was made by Bobby Colson and seconded by Mary Frances Rudy to accept Legal's recommendation to authorize a Formal Hearing. Motion carried. No opposition.

3. L08-AUC-RBS-2008013001.

Complaint: Complainant alleges that he was solicited by the Respondent to send motorcycles to the auction. Respondent informed the Complainant that auctions with reserve were illegal in Tennessee, but assured the Complainant that they would bring at least the "retail" price that Complainant wanted. Units sold for less than half of the amount that the Respondent had assured him the units would bring.

Response: Respondent states that the motorcycles were auctioned according to the terms of the contract.

Motion was made by Mary Frances Rudy and seconded by Bobby Colson to accept Legal's recommendation to authorize a Formal Hearing. Motion carried. No opposition.

4. L08-AUC-RBS-2008011881 The Aircraft Auctions

Complaint: Complaint alleges that the Respondent advertised without a firm number.

Response: Respondent had instructed the web designer not to publish the website until all information was completed, but the web designer loaded the web page for testing purposes.

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to accept Legal's recommendation to send a Letter of Warning. Motion carried. No opposition.

5. L08-AUC-RBS-2007060961.

Complaint: Complaint alleges that the Respondent improperly released escrow money. A civil suit was brought against the Respondent in May, 2007. As of July 3, 2008, the case has yet to be set for trial.

Response: None requested.

Motion was made by Marvin Alexander and seconded by Mary Frances Rudy to close with right to re-open if civil suit results in finding that Respondent has engaged in conduct that would constitute a violation of statutes or rules. Motion carried. No opposition. Bobby Colson recused himself.

6. L08-AUC-RBS-2008011861.

Complaint: Complaint alleges that the Respondent advertised an auction without listing a firm number.

Response: Property was auctioned by the property owner and no firm was used.

Motion was made by Marvin Alexander and seconded to Bobby Colson to defer and request a copy of deed. Motion carried. No opposition.

7. L08-AUC-RBS-2008012851 Mark Elliot Williams

Complaint: Complaint alleges that a participant in the audience was making bids against himself and that this was brought to the attention of the ring person who ignored the situation.

Response: Respondent states that the auctioneer attempts to avoid a person bidding against himself but that sometimes it inadvertently may happen. The person allegedly bidding against himself left the auction.

Motion was made by Marvin Alexander and seconded by Bobby Colson to accept Legal's recommendation to dismiss. Motion carried. No opposition.

8. L08-AUC-RBS-2008001171 Elite Auction Sales

Complaint: Complaint alleges that the Respondent sold five motorcycles at auction on November 23, 2007 but as of January 6, 2008 had not received payment from the

Respondent. Complainant notified the Commission on January 23, 2008 that it had received payment.

Response: Delay was the result of not receiving proper documentation from the Complainant on one of the units.

Motion was made by Marvin Alexander and seconded by Bobby Colson to accept Legal's recommendation to send Letter of Warning. Motion carried. No opposition.

9. L07-AUC-RBS-2007053181.

Complaint: Complaint alleging unlicensed conduct was presented originally on August 6, 2007 and a consent order of \$3,000 was approved by the Commission. The Respondent subsequently contacted this office and stated that he has no means of paying this civil penalty, is in very poor health, and is no longer engaging in unlicensed conduct.

Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to have Investigations to check Respondent's assets. Motion carried. No opposition.

10. L08-AUC-RBS-200801168. Waynesville Auction Company

Complaint: Complaint alleges that the firm left its license number off an advertisement.

Recommendation: The Respondent states that it inadvertently left the firm license number off the ad. Auction was cancelled.

Motion was made by Marvin Alexander and seconded by Bobby Colson to take Legal's recommendation to send a Letter of Warning. Motion carried. No opposition.

Commission discussed and approved proposed amendments to rules relative to public automobile auctions.

Rule 0160-1-.10 Auction Schools. Motion was made by Marvin Alexander and seconded by Bobby Colson to approve A thru G. Motion carried. No opposition.

Rule 0160-1-.11. Civil Penalties. Motion was made by Bobby Colson and seconded by Mary Frances Rudy to approve Civil Penalties. Motion carried. No opposition.

Rule 0160-1-.14. Fees. Motion was made by Mary Frances Rudy and seconded by Marvin Alexander to approve Fees. Motion carried. No opposition.

Commission discussed and approved proposed amendments to rules relative to public automobile auctions.

New Rules

Rule 0160-1-.25. Public Automobile Auctioneer License

Rule 0160-1-.26. Public Automobile Auction License

Motion was made by Marvin Alexander and seconded by Mary Frances Rudy to add
An applicant for a public automobile auction license shall submit an application on a form prescribed by the Commission, accompanied by a nonrefundable application fee, accompanied by proof of the requirements or Motor Vehicle licensure. Motion carried. No opposition.

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Commission discussed and approved Rulemaking process. Motion was made by Mary Frances Rudy and seconded by Bobby Colson that Rulemaking Process is in compliance items 1 thru 7. Motion carried. No opposition.

Commission discussed and approved Economic Impact Statement. Motion was made by Marvin Alexander and seconded by Bobby Colson. Motion carried. No opposition.

There being no further business, meeting adjourned.

July 7, 2008

APPROVED:

Kenneth Dreaden
Chairperson

Howard Phillips
Vice-Chairperson

Marvin Alexander
Board Member

Bobby Colson
Board Member

Mary Frances Rudy
Board Member